

**CIVIL SERVICE COMMISSION MINUTES
AUGUST 2, 2006**

A regular meeting of the Civil Service Commission was held at 2:30 p.m. in the 6TH Floor Tower of the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

A.Y. Casillas
Barry I. Newman
Francesca Krauel
W. Dale Bailey

Absent was:

Cheryl Fisher

Comprising a quorum of the Commission

Support Staff Present:

Patt Zamary, Executive Officer
William Smith, Senior Deputy County Counsel
Selinda Hurtado-Miller, Reporting

**Approved
Civil Service Commission
September 6, 2006**

2:00 p.m. CLOSED SESSION: Discussion of Personnel Matters
and Pending Litigation

2:30 p.m. OPEN SESSION: 6th Floor Tower, 1600 Pacific
Highway, San Diego, California

COMMENTS: Motion by Bailey to approve all items not held for discussion; seconded by Casillas. Carried.

A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Title: Independent Contractor to Assist Hearing Officers

B. PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Title: Executive Officer

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3. Ismael Herrera, SEIU Local 535, on behalf of **Mary Gable**, former Human Services Specialist, appealing a Final Order of Removal and Charges from the Health and Human Services Agency.

RECOMMENDATION: Deny Request

Ms. Gable explained that she feels she was misinformed regarding the Civil Service Commission appeal process. She is currently going through a criminal trial, and believes SEIU Local 535 informed her to wait until the trial was over before filing her appeal, thus resulting in a late appeal. Local 535 representative, Ismael Herrera was not present at this meeting to answer to Ms. Gable's allegations.

At this point, Commission members discussed whether this item should be held in abeyance pending the outcome of the criminal matter. The Commission opined that the standards used during a criminal trial should not be the same standards used for an employment judgment.

During this meeting, the Commission opted to contact Local 535 to ascertain whether Mr. Herrera was able to immediately come to the meeting to answer questions from the Commission.

Motion by Krauel to trail this matter; seconded by Bailey. Carried. Item No. 4 was addressed and then a 3-minute recess was called by President Newman.

This meeting resumed with a telephone conference between President Newman and Stewart Kocivar, Local 535. Mr. Kocivar explained that Mr. Herrera was on vacation, and offered to send another union representative to this meeting; however the Commission finds it imperative that they hear from Mr. Herrera, as he is absolutely relevant regarding justification for the late appeal.

Motion by Bailey to go forward immediately with this item. Motion failed for lack of second.

Motion by Krauel to continue this item to the September 6, 2006 Civil Service Commission Meeting; seconded by Casillas.

Motion by Newman to add an amendment to Ms. Krauel's Motion above. He requested that Commission staff research the status of the criminal case. Motion failed for lack of second.

Original Motion by Krauel to continue this item to the September 6, 2006 meeting carried.

DISCRIMINATION

Findings

4. Commissioner Krauel: Pajman Jassin, Esq., on behalf of **Cynthia Johnson**, former Housing Aide, alleging age and race discrimination and retaliation by the Department of Housing and Community Development.

FINDINGS & RECOMMENDATIONS:

At the regular meeting of the Civil Service Commission on May 18, 2005, the Commission appointed Francesca Krauel to investigate the complaint submitted by Cynthia Johnson, which alleged age and race discrimination and retaliation by the Department of Housing and Community Development. The matter was concurrently referred to the Office of Internal Affairs (OIA) for investigation.

The Commission office was informed in July, 2005 that Ms. Johnson had filed a complaint with the Department of Fair Employment and Housing (DFEH), raising the same or similar allegations as the complaint filed with the Civil Service Commission. The Civil Service Commission held Ms. Johnson's complaint in abeyance, pending the resolution of the DFEH complaint. DFEH concluded its investigation on June 8, 2006, determining that there was "no probable cause to prove a violation of the statute". Ms. Johnson, on June 27, 2006, requested that the Civil Service Commission pursue its investigation. OIA concluded that investigation on or about July 6, 2006, and has reported back to the Commission its findings.

The Investigating Officer has taken into consideration documentation submitted in this matter. The report of OIA has been received and reviewed by the undersigned Investigating Officer who concurs with OIA's Report. It is therefore recommended that Ms. Johnson's Rule VI discrimination complaint be denied; that the Commission approve and file this report with the appended OIA Final Investigative Report with a finding of no probable cause to believe that the Complainant has been unlawfully discriminated against; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Krauel to approve findings and recommendations; seconded by Bailey. Carried.

SELECTION PROCESS

Appeals

5. **Joanna Charnas**, Aging Program Specialist III, Health and Human Services Agency, appealing her non-selection for transfer to the position of Aging Program Specialist III, Call Center Supervisor, by the Health and Human Services Agency.

RECOMMENDATION: Deny Request

Donna Clark Richardson, SEIU Local 2028, and Joanna Charnas allege that the Agency has consistently denied Ms. Charnas' lateral transfer into an APS III position. Both Ms. Clark-Richardson and Ms. Charnas emphasized that Ms. Charnas was more qualified than the employee who was currently hired into the position, and also that the position had been underfilled.

Dennis Floyd, Sr. Deputy County Counsel, questioned whether the Commission has jurisdiction over this matter, stating that the Commission should accept that the representative of the Agency made the proper decision regarding the APS III position. Velandra Joyner, Departmental Personnel Officer of Aging and Independent Services explained to the Commission that this position was not underfilled, but rather that the current employee was promoted into it.

**Motion by Bailey to accept staff recommendation;
seconded by Casillas. Carried.**

Findings

6. **Chad Mansell**, appealing the Department of Human Resources' removal of his name from the employment list for Deputy Sheriff Cadet.

RECOMMENDATION: Ratify. Appellant has been successful in the appellate process provided by Civil Service Rule 4.2.2.

Item No. 6 ratified.

OTHER MATTERS

7. Employment of Independent Contractor to Assist Hearing Officers. Authorize County Counsel to prepare and execute an amendment to extend the agreement for two years and increase the hourly rate by \$10.00.

Staff recommendation approved.

8. Public Input.

ADJOURNED: 3:30 p.m.

NEXT REGULAR MEETING OF THE CIVIL SERVICE COMMISSION:

SEPTEMBER 6, 2006